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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,094	07/29/2003	Brian P. Giffin	14558.01	6379

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EXAMINER

VALENZA, JOSEPH E

ART UNIT	PAPER NUMBER
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3651

DATE MAILED: 02/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/629,094

Applicant(s)

GIFFIN, BRIAN P.

Examiner

Joseph Valenza

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/23/04, 11/15/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-3, 5-7, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frank.

The first conveyor is conveyor 271-273 and the second conveyor is downstream elements 25. The article being conveyed in Frank is considered to be the functional equivalent to the claimed blank. Concerning the requirement in line 4 of claim 1 that the plurality of blanks are on the first conveyor, the number of blanks on the first conveyor is immaterial because applicant's sensor 44 activates the speed changing sequence for each article. With regard to claim 7, the design of the detector is immaterial to the operation of the system, therefore, the detector 38 of Frank is functionally equivalent.

2. Claims 8 and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frank in view of Long.

It would have been obvious to modify the second conveyor 25 of Frank to have a nip like downstream conveyor 18A of Long for handling blanks. With regard to claim 16, it would have been obvious to add hopper 48, 52 of Long to the structure of Frank.

3. Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frank in view of Cai et al.

It would have been obvious to add the teaching in Cai et al of calculating the period of speed change based on the length of the blank as claimed or current velocity adjusted for lag due to known acceleration/deceleration curves. For a short conveyor, the article length can be important. For a reasonable length (selected for the maximum

length article) conveyor, the lag in acceleration/deceleration curves of the variable speed drive is the main concern.

4. With regard to the offer to sell in Proposal #4441, since there is no proof that the invention disclosed in the proposal and claimed in this application was reduced-to-practice before the filing date of this application or the provisional application, no rejection under 35 U.S.C. 102 (b) "on sale" or "in public use" provided that the proposal was actually mailed to and received by Sound Container. Additionally, since there is no requirement of confidentiality in the proposal, a rejection under 35 U.S.C. 102 (a or b) (a-known by others or b-printed publication) would be proper if the proposal was actually mailed to and received by Sound Container.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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6. Any inquiry concerning this communication should be directed to Joseph E. Valenza at telephone number (703) 308-2577. Amendments may be faxed to (703) 872-9306. My normal work week is Monday through Thursday.

A handwritten signature in cursive script that reads "Joseph Valenza". The signature is written in black ink and is positioned above the printed name and title.

JOSEPH E. VALENZA
PRIMARY EXAMINER